

# **EXHIBIT A**

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10/2/2015 4:47:34 PM  
Hidalgo County District Clerks  
Reviewed By: Leticia Pecina

NO. C-4978-15-E

**David L. Tamez**

*Plaintiff*

**VS.**

**THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA**

*Defendant*

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**IN THE DISTRICT COURT**

**HIDALGO COUNTY, TEXAS**

**\_\_\_\_ JUDICIAL DISTRICT**

**PLAINTIFF'S ORIGINAL PETITION**  
**WITH JURY DEMAND AND REQUEST FOR DISCLOSURE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES David L. Tamez, Plaintiff, filing this Original Petition against The Prudential Insurance Company of America, and in support thereof would show:**

**I.**

Pursuant to T.R.C.P. 190.1, Plaintiff asserts that this case is to be governed by the Level 3 discovery plan.

**II.**

Venue is appropriate in this county pursuant to §15.002 and §15.032 of the Texas Civil Practice and Remedies Code.

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III.

Plaintiff is a resident of Donna, Hidalgo County, Texas, and was a resident of Hidalgo County Texas, at the time of the events making the basis of this lawsuit accrued.

Defendant, The Prudential Insurance Company of America ("Prudential") is an insurance corporation duly and legally formed under the laws of New Jersey, which does business in the State of Texas, and may be served with citation herein by serving its registered agent, C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136, or by sending a copy of the petition by registered or certified mail, return receipt requested, WITH DELIVERY RESTRICTED TO THE ADDRESSEE ONLY, pursuant to Tex.R.Civ.P. 106(a)(2).

IV.

All conditions precedent to any recovery herein have been performed or have occurred.

V.

It has become necessary to bring this suit due to the failure of Prudential to honor its obligations to Plaintiff. Plaintiff was an Air Conditioning Technician for the Donna Independent School District in 2010 when he became disabled due to degeneration at multiple levels of his spine. At the time he became disabled, Plaintiff was insured for long term disability benefits under a policy of insurance issued by Prudential to the Donna Independent School District, identified as Group Contract Number PVIB-03, and insuring Plaintiff. Plaintiff properly submitted a claim to Prudential, identified as Claim Number 11382164, which was approved. Prudential continued to honor said claim until November 1, 2013, when it discontinued benefits. Plaintiff then properly appealed to the designated fiduciary of the plan but Plaintiff's final appeal

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was denied November 19, 2014.

**VI.**

The above facts give rise to the following causes of action:

**1. Breach of Contract.** The conduct described above constitutes a breach of the terms of the insurance policy. Plaintiff has incurred a covered loss which should have been compensated by Defendant. Defendant has failed to perform its obligations under the contract by failing to pay claims submitted.

**2. Texas Insurance Code, Chapter 542 Violations.** Defendant failed to timely provide all of its reasons for the rejection of Plaintiff's claim within the applicable deadlines established by § 542.056 of the Texas Insurance Code and failed to pay the claims within the applicable deadlines established by §§ 542.057 and 542.058 of the Code. These violations entitle Plaintiff to damages, eighteen (18%) percent interest per annum on his damages, and attorney's fees and expenses under § 542.060 of the Code.

**3. Unfair Claim Settlement Practices.** Defendant's conduct described above violates §§ 541.003 and 541.060 of the Texas Insurance Code and is an unfair or deceptive act or practice in the business of insurance. Specifically, Defendant engaged in the following prohibited conduct:

- A) Defendant did not attempt to effectuate a prompt, fair, and equitable settlement of the claim;
- B) Defendant compelled Plaintiff to file suit by offering substantially less than will ultimately be recovered;
- C) Defendant failed to pay the claim without conducting a reasonable investigation.

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This conduct was done knowingly, as that term is defined by § 541.152(b) of the Texas Insurance Code.

VII.

The conduct described in this petition was a producing and proximate cause of damage to Plaintiff in an amount exceeding the minimum jurisdictional limits of this Court.

VIII.

**ORIGINAL PETITION FOR DECLARATORY RELIEF**

Pleading further, Plaintiff would show that he is entitled to declaratory relief, pursuant to Chapter 37 of the Texas Civil Practices and Remedies Code. The evidence at trial will show that Defendant has denied Plaintiff benefits, which it owes, because it claims Plaintiff is not disabled under the terms of the policy.

IX.

The conduct of Defendant as described above creates uncertainty and insecurity with respect to Plaintiff's rights, status, and other legal relations with Defendant. Plaintiff, therefore requests this Court exercise its power afforded under § 37.001 *et. seq.* of the Texas Civil Practice and Remedies Code, and declare the specific rights and statuses of the parties herein. Specifically, Plaintiff requests this Court review the facts and attending circumstances and issue a declaratory judgment clarifying this matter.

X.

Plaintiff prays that the Court award costs and reasonable and necessary attorneys fees which are equitable and just.

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XI.

JURY DEMAND

Plaintiffs hereby make application and demand for jury trial of this cause.

XII.

REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, you are requested to disclose, within (50) days of the service of this Request, the information or material described in Rules 194.2(a)-(l).

WHEREFORE, Plaintiff prays that Defendant be cited to appear herein and answer and that on final hearing, he have judgment against Defendant for his damages, statutory additional damages including interest and triple damages, prejudgment and post-judgment legal interest, for costs of suit, for reasonable attorney's fees and expenses incurred and that Plaintiff have a clarification of his right to receive future benefits under the policy, to which he may show himself justly entitled under the attending facts and circumstances.

Respectfully submitted,

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